

Case No. 25-6536

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

TODD R.G. HILL
Plaintiff-Appellant,

v.

THE BOARD OF DIRECTORS, OFFICERS AND AGENTS AND
INDIVIDUALS OF THE PEOPLES COLLEGE OF LAW, et al.
Defendants-Appellees.

Appeal From the United States District Court
For the Central District of California
The Honorable Josephine L. Staton, District Judge
Case No. 2:23-cv-01298-JLS-BFM

APPELLEES' ANSWERING BRIEF

Ellin Davtyan (238608)
Kirsten R. Galler (227171)
Jennifer Ko (324623)
Office of General Counsel
THE STATE BAR OF CALIFORNIA
845 South Figueroa Street
Los Angeles, CA 90017
Tel: (213) 765-1269

Helene Simvoulakis-Panos (256334)
Office of General Counsel
THE STATE BAR OF CALIFORNIA
180 Howard Street
San Francisco, CA 94105
Tel: 415-538-2362

Attorneys for Defendants-Appellees

Louisa Ayrapetyan, Natalie Leonard, Leah Wilson, Brandon Stallings,
Ruben Duran, Hailyn Chen, Audrey Ching, Melanie Shelby, Arnold
Sowell, Jr., Mark Toney, Paul Kramer, Jean Krasilnikoff, Ellin
Davtyan, George Cardona, Devan McFarland, Enrique Zuniga

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I. INTRODUCTION

Appellant Todd R.G. Hill (“Hill”) is a former student at the Peoples College of Law (“PCL”), an unaccredited private law school in Los Angeles, California. PCL was registered with and regulated by the State Bar of California’s Committee of Bar Examiners (“CBE”) until the State Bar revoked PCL’s registration and terminated its degree-granting authority in May 2024.

Unhappy with the administration and regulation of PCL, Hill filed suit against PCL and various individuals affiliated with the school (the “PCL Defendants”), as well as the State Bar, various State Bar departments and committees, and numerous individuals affiliated with the State Bar and its Board of Trustees (the “State Bar Defendants”) in 2023.¹ After being provided several attempts to amend, Hill’s Second

¹ Hill asserted claims against the State Bar as an entity, various State Bar departments and committees, and numerous State Bar employees and officials in their official capacities in the SAC. 12-StateBarSER-2854–3043. After these parties were dismissed with prejudice, Hill named various State Bar employees and officials in their individual capacities as defendants in the TAC. 9-StateBarSER-2186–2244, 10-StateBarSER-2246–2374. The individual State Bar Defendants named in the TAC are defendants Louisa Ayrapetyan, Natalie Leonard, Leah Wilson, Brandon Stallings, Ruben Duran, Hailyn Chen, Audrey Ching, Melanie Shelby, Arnold Sowell, Jr., Mark Toney, Paul Kramer, Jean

Amended Complaint (“SAC”) and Third Amended Complaint (“TAC”) allege, as to the State Bar Defendants, that they failed to properly regulate the school and conspired with PCL to commit various acts of wrongdoing, including depriving him of a legal education.

The district court properly dismissed Hill’s claims in the SAC against the State Bar as an entity, its departments and committees, and individual State Bar employees and officials named in their official capacities with prejudice and without leave to amend on the grounds of Eleventh Amendment immunity. The district court also properly dismissed Hill’s claims in the TAC against the individual State Bar Defendants named in their individual capacities with prejudice and without leave to amend for failure to state a claim. The district court

Krasilnikoff, Ellin Davtyan, George Cardona, Devan McFarland, and Enrique Zuniga. 9-StateBarSER-2186–2244, 10-StateBarSER-2246–2374. The State Bar Defendants were dismissed from the TAC and were not named as defendants in the Fourth Amended Complaint (“4AC”), which only asserted claims against individuals and entities associated with PCL. 7-StateBarSER-1374–1421. The PCL Defendants named in the 4AC are defendants The Board of Directors, Officers and Agents and Individuals of the Peoples College of Law, the Guild Law School, Christina Marin Gonzalez, Hector C. Pena, Robert Ira Spiro, Juan Manuel Sarinana, Prem Sarin, David Tyler Bouffard, Joshua Gillens, Clemente Franco, Hector Sanchez, Pascual Torres, Carol Deupree, Gary Silbiger, Edith Pomposo, Adriana Zuniga Nunez, Roger Aramayo, William Maestas, and Ismael Venegas. 7-StateBarSER-1374–1421.

also acted within its discretion in denying leave to amend Hill's TAC, as it relates to the State Bar Defendants, and denying several of Hill's requests for judicial notice. Finally, the district court properly denied Hill's motions to alter or amend the judgment under Federal Rule of Civil Procedure 59(e).

Refusing to accept that his unmeritorious claims have been dismissed, Hill now files this appeal rehashing arguments that have already been raised before and rejected by the district court—specifically, that the district court erred in its rulings regarding sovereign immunity, the dismissal of the equal protection and civil RICO claims, requests for judicial notice, futility of amendment, and motions under Federal Rule of Civil Procedure 59(e). But apart from citing to inapposite case law, Hill provides no relevant or binding authority demonstrating that the district court's decisions were erroneous. Additionally, Hill has now waived any grounds for appeal other than those squarely presented in his opening brief.

Hill's appeal is meritless, and the judgment should be affirmed.

II. JURISDICTIONAL STATEMENT

As relevant to the State Bar Defendants, the district court had subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Hill attempted to state a claim in the SAC and TAC under the civil RICO statute, 18 U.S.C. § 1964, *et seq.*, an equal protection claim under 42 U.S.C. § 1983, and claims for violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq.*, and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.* 9-StateBarSER-2186–2244, 10-StateBarSER-2246–2374, 12-StateBarSER-2854–3043. This Court has appellate jurisdiction under 28 U.S.C. § 1291 because this appeal is from a final judgment. 1-StateBarSER-10. The district court entered judgment on August 20, 2025. *Id.* Hill timely filed a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e), which was denied on September 26, 2025. 1-StateBarSER-2–9, 2-StateBarSER-150–84. Hill timely filed a notice of appeal on October 6, 2025. 17-StateBarSER-4328–44.

III. STATUTORY AUTHORITIES

All relevant constitutional, statutory, and regulatory authorities appear in the Addendum to this brief.

IV. ISSUES PRESENTED

1. Whether Hill has waived any grounds for appeal not presented in his opening brief.
2. Whether the district court properly dismissed Hill's claims in the SAC against the State Bar as an entity, State Bar committees and departments, and State Bar officials and employees in their official capacities as barred by the State Bar's Eleventh Amendment immunity.
3. Whether the district court properly dismissed Hill's claims in the TAC against the individual State Bar Defendants in their individual capacities for failure to state a claim.
4. Whether the district court's dismissal can be affirmed on the additional and alternative grounds not reached by the district court.
5. Whether the district court acted within its discretion in dismissing Hill's claims in the SAC and TAC against the State Bar as an entity, State Bar committees and departments, and State Bar

officials and employees in their individual and official capacities with prejudice and without leave to amend.

6. Whether the district court acted within its discretion in ruling on Hill's requests for judicial notice without issuing line-by-line, exhibit-by-exhibit explanations of its rulings.

7. Whether the district court acted within its discretion in denying Hill's motions to alter or amend the judgment under Federal Rule of Civil Procedure 59(e).²

V. STATEMENT OF THE CASE

A. The State Bar's Regulation of Peoples College of Law

The CBE is a State Bar committee that administers the bar examination and certifies applicants who have fulfilled the admission requirements to the Supreme Court. Bus. & Prof. Code §§ 6060, 6064.

² Hill presents one additional issue in his opening brief and contends that the district court erred in its ruling regarding diversity jurisdiction. AOB at 41–47. According to Hill, the district court's ruling creates ambiguity as to the grounds for dismissal of his state-law claims against the PCL Defendants. *Id.* Hill's arguments regarding his domicile and diversity jurisdiction are not relevant to his state-law claims against the State Bar Defendants, which the district court dismissed from the SAC and TAC on the grounds of Eleventh Amendment immunity and for failure to state a claim. 1-StateBarSER52–54, 1-StateBarSER57–123. As such, the State Bar Defendants do not address this issue in their brief.

The CBE is also charged with the approval, regulation, and oversight of law schools in California. Bus. & Prof. Code §§ 6060(h)(2); 6060.7. The CBE regulates California Unaccredited Law Schools, which included PCL, the school Hill attended, until it lost its registered status in May 2024.

B. The Proceedings Below

On February 20, 2023, Hill filed his initial Complaint asserting wrongdoing by a wide-ranging group of defendants affiliated with either PCL or the State Bar. 14-StateBarSER-3413–3711, 15-StateBarSER-3713–4011, 16-StateBarSER-4013–4311, 17-StateBarSER-4313–27. On April 5, 2023, the district court sua sponte dismissed the Complaint with leave to amend for failure to comply with the pleading requirements of Federal Rule of Civil Procedure 8. 1-StateBarSER-142–48. The district court also revoked Hill’s e-filing privileges based on Hill’s repeated filing of voluminous, redundant documents, and his repeated, improper emailing of Court staff. 1-StateBarSER142–48.

On April 18, 2023, Hill filed a First Amended Complaint (“FAC”), which the district court again sua sponte dismissed with leave to amend for failure to comply with Rule 8. 1-StateBarSER-132–41, 12-

StateBarSER-3051–3111. On July 27, 2023, the district court entered a judgment of dismissal based on Hill’s failure to timely file a SAC. 1-StateBarSER-130–31.

On September 20, 2023, after moving to set aside the judgment of dismissal, Hill filed a SAC asserting claims against 48 defendants associated with the State Bar—the State Bar as an entity, various State Bar departments and committees, and numerous individual defendants—as well as against the PCL Defendants. 1-StateBarSER-124–28, 12-StateBarSER-2854–3050. The SAC attempted to assert the following claims against the State Bar Defendants: (1) breach of fiduciary duty (second and third causes of action); (2) untrue or misleading statements in violation of California Business & Professions Code § 17500 (fifth cause of action); (3) civil rights violations under 42 U.S.C. § 1981 and California Civil Code § 52.1 (sixth and seventh causes of action); (4) negligence (eighth cause of action); (5) violation of the civil RICO statute (ninth cause of action); (6) conspiracy (tenth cause of action); (7) Title IX violations (twelfth and thirteenth causes of action); (8) civil rights violations under 18 U.S.C. §§ 241, 242, and 245

(fourteenth, fifteenth, and sixteenth causes of action). 12-StateBarSER-2854–3043.

The State Bar Defendants and other defendants moved to dismiss the SAC. 12-StateBarSER-2813–53. On April 23, 2024, the magistrate judge issued an interim Report and Recommendation on the State Bar Defendants’ motion to dismiss the SAC as well as the motions brought by the other defendants. 1-StateBarSER-93–123. As to the State Bar Defendants, the magistrate judge recommended dismissal of all claims against the State Bar as an entity, State Bar committees or departments, and the individual State Bar Defendants in their official capacities with prejudice as barred by the State Bar’s Eleventh Amendment sovereign immunity, with the exception of Hill’s claims asserting violations of Title IX (his twelfth and thirteenth causes of action) and claims seeking declaratory or injunctive relief (his sixth, seventh, twelfth, and thirteenth causes of action). *Id.* The magistrate judge also recommended that Hill’s remaining claims (and the SAC as a whole) be dismissed with leave to amend based on Hill’s failure to comply with Rule 8. *Id.* Hill and the State Bar Defendants objected to the magistrate judge’s interim Report and Recommendation. 10-

StateBarSER-2375–2414. The district court overruled the parties’ objections, accepted the interim Report and Recommendation, and permitted Hill to file the TAC raising only those claims that were dismissed without prejudice. 1-StateBarSER-90–92.

On August 21, 2024, Hill filed the TAC asserting claims against the State Bar Defendants, this time naming only 16 individual defendants associated with the State Bar in their individual capacities instead of the 44 individuals in his SAC, as well as claims against the PCL Defendants. 9-StateBarSER-2186–2244, 10-StateBarSER-2246–2374. The TAC improperly rehashed bases for liability that had previously been rejected by the district court and improperly asserted new claims against the individual State Bar Defendants in violation of the district court’s order granting leave to amend the SAC only to remedy the deficiencies identified by the court. *Id.* The TAC attempted to assert the following claims against the State Bar Defendants in their individual capacities: (1) an equal protection violation (first cause of action); (2) violation of the Unruh Civil Rights Act, California Civil Code § 51, *et seq.* (second cause of action); (3) a Title VI claim (third cause of action); (4) a civil RICO claim (fourth cause of action); (5) a conspiracy

claim (fifth cause of action); (6) negligence-based claims (sixth and seventh causes of action); and (7) a Title IX claim (eighth cause of action). *Id.*

After filing the TAC, Hill filed a motion to amend the TAC. 9-StateBarSER-2181–85. The State Bar Defendants and other defendants moved to dismiss the TAC. 9-StateBarSER-1985–2000, 2083–2129, 2181–85. While the motions were pending, Hill filed numerous motions to supplement the record and requests for the district court to take judicial notice of various documents. 8-StateBarSER-1781–1944, 9-StateBarSER-1946–84.

On February 12, 2025, the magistrate judge issued an interim Report and Recommendation on the State Bar’s motion to dismiss the TAC as well as the motions brought by the other defendants and Hill’s motion to amend. 1-StateBarSER-57–89. As to the State Bar Defendants, the magistrate judge recommended that all claims against them be dismissed with prejudice and without further leave to amend, and that these defendants be dismissed from the case with prejudice. *Id.* The magistrate judge also recommended that Hill’s motion to amend

the TAC be denied. *Id.* Specifically, the magistrate judge recommended that:

- Hill fails to state an equal protection claim because the individual State Bar Defendants' purported knowledge of the existence of racial disparities, a State Bar non-interference policy that facially applies to all students, or a failure to investigate Hill's complaints against PCL do not give rise to a constitutional injury.
- Hill fails to state a Title VI claim because individual defendants are not proper defendants for a Title VI claim and even if individual defendants could be sued, the TAC does not plausibly allege racial discrimination.
- Hill fails to state a civil RICO claim because the TAC does not plausibly allege the existence of an association-in-fact enterprise or a predicate act of racketeering.
- Hill fails to state a Title IX claim because individual defendants are not proper defendants for a Title IX claim and even if individual defendants could be sued, the TAC

fails to allege any affirmative action by the individual State Bar Defendants, let alone retaliatory conduct.

- Hill fails to state any state-law claim for violation of California’s Unruh Act, negligence, or conspiracy because the State Bar does not operate as a “business establishment” regulated by the Unruh Act, there is no duty or special relationship between Hill and the individual State Bar Defendants that would give rise to a negligence claim, and conspiracy is not a stand-alone cause of action under California law.
- Further amendment of any claims asserted against the State Bar as an entity, State Bar committees or departments, and individual State Bar Defendants named in their individual or official capacities would be futile based on Eleventh Amendment immunity and Hill’s inability to allege any facts showing affirmative conduct by the State Bar Defendants.

1-StateBarSER-70–83.

Hill objected to the magistrate judge’s interim Report and Recommendation and filed numerous requests for judicial notice,

motions to conduct discovery, and notices of purported “procedural misrepresentations.” 7-StateBarSER-1533–42, 7-StateBarSER-1558–73, 7-StateBarSER-1587–1657, 8-StateBarSER-1659–1780. On March 10, 2025, the magistrate judge denied his motion to conduct discovery and request for judicial notice of legal precedent. 1-StateBarSER-55–56. Hill responded by filing additional motions and renewed requests for leave to conduct discovery and for the court to issue immediate rulings. 7-StateBarSER-1438–1532. On March 27, 2025, the district court overruled Hill’s objections, accepted the interim Report and Recommendation, dismissed the individual State Bar Defendants with prejudice from the action, and permitted Hill to file a Fourth Amended Complaint (“4AC”) and asserting only those claims against the PCL Defendants that were dismissed without prejudice, and remedying the deficiencies identified by the district court as to the PCL Defendants. 1-StateBarSER-52–54. On March 28, 2025, Hill filed a motion for reconsideration. 7-StateBarSER-1422–37. On March 31, 2025, the magistrate judge denied Hill’s motions for leave to conduct discovery and denied Hill’s remaining requests for judicial notice and for

reconsideration of the interim Report and Recommendation as moot. 1-StateBarSER-50–51.

On March 31, 2025, Hill filed a 4AC, followed by a corrected 4AC on April 1, 2025. 6-StateBarSER-1240–1372, 7-StateBarSER-1374–1421.

Because the State Bar as an entity, State Bar committees and departments, and individual State Bar Defendants were dismissed with prejudice, the 4AC does not include any claims against them. *Id.*

Shortly thereafter, Hill filed a motion to compel compliance with meet and confer requirements and a supplemental filing in support of his motion for reconsideration. 6-StateBarSER-1184–1239. On April 25, 2025, the district court denied Hill’s motion for reconsideration. 1-StateBar-SER46–49. Hill responded with a flurry of filings, including a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e), requests for updates, a request for judicial notice and supplemental brief in support of his second motion for reconsideration, and various notices to the district court. 5-StateBarSER-975–98, 5-StateBarSER-1008–22, 6-StateBarSER-1083–1150.

On May 19, 2025, Hill filed a proposed Fifth Amended Complaint (“5AC”) and, after being ordered by the magistrate judge to file a redline

version showing the changes between the 4AC and the 5AC, filed a redline version of the 5AC. 1-StateBarSER-44, 4-StateBarSER-507–96, 4-StateBarSER-783–87, 5-StateBarSER-789–974. On May 27, 2025, the district court denied Hill’s motion for reconsideration. 1-StateBarSER-40–43. On June 13, 2025, Hill filed a motion for leave to file a 5AC. 3-StateBarSER-290–484. On June 19, 2025, Hill filed a request to certify an interlocutory appeal, which the district court denied on July 11, 2025, along with Hill’s first Rule 59(e) motion. 1-StateBarSER-36–39.

On July 22, 2025, the magistrate judge issued a Report and Recommendation recommending that the 4AC, which asserted four claims against the PCL Defendants, be dismissed for failure to plausibly allege a civil RICO claim—the only federal claim—and that the district court decline to exercise supplemental jurisdiction over Hill’s remaining state-law claims. 1-StateBarSER-14–35. The magistrate judge also recommended that Hill’s motion to file a 5AC be denied. *Id.* Hill objected to the magistrate judge’s Report and Recommendation. 2-StateBarSER-232–66. The district court overruled Hill’s objections, and accepted in large part the Report and Recommendation, with the modification that Hill’s federal civil RICO

claim against the PCL Defendants was dismissed with prejudice and his remaining state-law claims against those defendants were dismissed without prejudice but without leave to amend. 1-StateBarSER-11–13.

The district court entered judgment against Hill on August 20, 2025. 1-StateBarSER-10. On August 20, 2025, Hill filed a second motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e). 2-StateBarSER-150–84. On September 26, 2025, the district court denied Hill’s second Rule 59(e) motion. 1-StateBarSER-2–9.

Hill timely filed a Notice of Appeal on October 6, 2025. 17-StateBarSER-4328–44.

VI. SUMMARY OF ARGUMENT

As to the State Bar Defendants, the district court’s dismissal of Hill’s claims against the State Bar Defendants in the SAC and TAC, dismissing the State Bar Defendants from the case with prejudice as well as its orders denying leave to amend, ruling on Hill’s requests for judicial notice, and denying Hill’s Rule 59(e) motions should be affirmed for the following reasons:

1. As this Court has repeatedly held, the State Bar is an administrative arm of the California Supreme Court and is entitled to Eleventh Amendment sovereign immunity. Thus, Hill's claims in the SAC against the State Bar as an entity, State Bar committees or departments, and State Bar employees or officials named in their official capacities are barred by the State Bar's Eleventh Amendment immunity.

2. As to Hill's claims in the TAC against the individual State Bar Defendants in their individual capacities, these claims fail to state either a federal or state-law claim. Specifically, as to equal protection and RICO claims—the only two causes of action the dismissal of which Hill challenges on appeal—the district court properly held that because an equal protection claim requires intent, the State Bar Defendants' purported failure to adequately regulate PCL and promulgation of facially neutral policies do not state an equal protection claim. As for RICO, the district court properly held that Hill failed to plausibly allege a RICO enterprise or any predicate acts of racketeering.

3. Though not expressly reached by the district court, Hill's equal protection and civil RICO claims against the individual State Bar

Defendants fail for the additional and alternative grounds that the individual State Bar Defendants are entitled to qualified immunity as to any federal claims asserted against them in their individual capacities and individual members of the State Bar's Board of Trustees and CBE are not proper defendants.

4. The district court properly denied leave to amend Hill's claims asserted in the TAC against the State Bar Defendants because the claims were barred and failed to state a claim, and the legal defects could not be cured through further amendment.

5. The district court properly ruled on Hill's requests for judicial notice because they did not satisfy the requirements for judicial notice under Federal Rule of Evidence 201 or were not necessary to resolve on a motion to dismiss.

6. The district court properly denied Hill's motions to alter or amend the judgment under Rule 59(e) because Hill did not demonstrate that any grounds under Rule 59(e)—an error of law or fact, newly discovered evidence, manifest injustice, or an intervening change in controlling law—were satisfied here.

Additionally, Hill has waived any grounds for appeal not raised in his opening brief.

This Court should affirm.

VII. STANDARD OF REVIEW

A district court's dismissal based on Eleventh Amendment immunity is reviewed de novo. *See Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969, 973 (9th Cir. 2004). A district court's dismissal based on failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) is reviewed de novo. *See Mudpie, Inc. v. Travelers Cas. Ins. Co. of Am.*, 15 F.4th 885, 889 (9th Cir. 2021). The denial of leave to amend is reviewed for abuse of discretion. *See Brown v. Stored Value Cards, Inc.*, 953 F.3d 567, 573 (9th Cir. 2020). A district court's decision whether to take judicial notice is reviewed for an abuse of discretion. *See Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 998 (9th Cir. 2018). A district court's decision on a motion to alter or amend a judgment filed under Rule 59(e) is reviewed for an abuse of discretion. *See EHM Prods., Inc. v. Starline Tours of Hollywood, Inc.*, 1 F.4th 1164, 1170–71 (9th Cir. 2021).

Dismissal may be affirmed on any ground supported by the record, even if not relied upon by the district court. *See Kwan v. San Medica Int'l*, 854 F.3d 1088, 1093 (9th Cir. 2017). “If the decision below is correct, it must be affirmed, even if the district court relied on the wrong grounds or wrong reasoning.” *Godecke v. Kinetic Concepts, Inc.*, 937 F.3d 1201, 1213 (9th Cir. 2019) (quoting *Cigna Prop. and Cas. Ins. Co. v. Polaris Pictures Corp.*, 159 F.3d 412, 418 (9th Cir. 1998)).

A complaint is properly dismissed unless it “contain[s] sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). Although courts accept factual allegations as true, this rule is “inapplicable to legal conclusions.” *Id.* Courts are not “required to accept as true allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences.” *In re Gilead Scis. Sec. Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008).

The factual allegations must “rise above the speculative level” and do more than “create[] a suspicion of a legally cognizable right of action.” *Twombly*, 550 U.S. at 555, 561 (citation omitted). In making

this determination, a court must “draw on its judicial experience and common sense.” *Iqbal*, 556 U.S. at 679. This analysis provides a critical gatekeeping function, because claims must be sufficiently plausible so “that it is not unfair to require the opposing party to be subjected to the expense of discovery and continued litigation.” *Eclectic Prop. E., LLC v. Marcus & Millichap Co.*, 751 F.3d 990, 996 (9th Cir. 2014).

VIII. ARGUMENT

A. Hill Has Waived Any Grounds for Appeal Not Presented in the Opening Brief

As an initial matter, in the proceedings below, Hill attempted to assert numerous claims across multiple pleadings against dozens of defendants affiliated with the State Bar, and contested virtually every ruling issued by the district court. However, this appeal is confined to those limited issues raised in Hill’s opening brief, namely, as to the State Bar Defendants, that the district court erred in its rulings on sovereign immunity, the dismissal of his equal protection and civil RICO claims, requests for judicial notice, futility of amendment, and motions under Federal Rule of Civil Procedure 59(e). Notably, in his opening brief, Hill does not challenge the district court’s dismissal of any other federal or state-law claim asserted in the SAC or TAC against

the State Bar Defendants. Thus, Hill has now waived any grounds for appeal not raised in his opening brief and may not raise new grounds for the first time on reply. *See Clark v. Time Warner Cable*, 523 F.3d 1110, 1116 (9th Cir. 2008) (“This court ‘will not ordinarily consider matters on appeal that are not specifically and distinctly argued in appellant’s opening brief.’”); *Tri-Valley CAREs v. U.S. Dep’t of Energy*, 671 F.3d 1113, 1130 (9th Cir. 2012) (“Claims not made in an opening brief in a sufficient manner to put the opposing party on notice are deemed waived.”).

As to the issues that Hill does challenge on appeal, the district court properly held that the State Bar and the individual State Bar Defendants sued in their official capacity have sovereign immunity and that Hill’s equal protection and RICO claims fail as a matter of law. Dismissal of these claims can also be affirmed on additional and alternative grounds not reached by the district court. The district court also did not err in ruling on Hill’s requests for judicial notice, determining that further amendment would be futile, and denying Hill’s motions to alter or amend the judgment under Federal Rule of Civil Procedure 59(e).

B. The District Court Properly Dismissed the Claims in the SAC against the State Bar and State Bar Employees in their Official Capacities as Barred by the State Bar's Eleventh Amendment immunity

The SAC attempted to assert twelve claims against the State Bar as an entity, various State Bar committees and departments, and individual State Bar employees and officials in their official capacities.³ 12-StateBarSER-2854–3043. The district court properly dismissed these claims as barred by the State Bar's Eleventh Amendment immunity, except for Hill's Title IX claims, which failed for naming individual defendants who cannot be sued under Title IX and failing to allege sex-based discrimination. 1-StateBarSER-90–92, 109–15. This ruling should be affirmed.

The Eleventh Amendment bars suits against a state from being brought in federal court absent the state's consent or abrogation of

³ The claims asserted in the SAC were: (1) breach of fiduciary duty (second and third causes of action); (2) untrue or misleading statements in violation of California Business & Professions Code § 17500 (fifth cause of action); (3) civil rights violations under 42 U.S.C. § 1981 and California Civil Code § 52.1 (seventh cause of action); (4) negligence (eighth cause of action); (5) violation of the civil RICO statute (ninth cause of action); (6) conspiracy (tenth cause of action); (7) Title IX violations (twelfth and thirteenth causes of action); and (8) civil rights violations under 18 U.S.C. §§ 241, 242, and 245 (fourteenth, fifteenth, and sixteenth causes of action). 12-StateBarSER-2854–3043.

immunity by Congress. *See Papasan v. Allain*, 478 U.S. 265, 276–77 (1986); *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984). This immunity extends to all forms of relief sought against the State, including prospective relief, and pendent or supplemental state-law claims. *Pennhurst*, 465 U.S. at 100–01, 120–21.

As this Court recently affirmed in an en banc decision, the State Bar is an arm of the State of California protected by the Eleventh Amendment. *Kohn v. State Bar of California*, 87 F.4th 1021, 1024–38 (9th Cir. 2023); *see also Lupert v. California State Bar*, 761 F.2d 1325, 1327 (9th Cir. 1985); *Hirsh v. Justices of the Supreme Court of Cal.*, 67 F.3d 708, 715 (9th Cir. 1995) (per curiam). So, too, are the State Bar’s employees sued in their official capacities. *See Hirsh*, 67 F.3d at 715 (the State Bar’s Eleventh Amendment immunity “extends to the individual defendants acting in their official capacities.”)

Accordingly, the district court properly dismissed Hill’s claims in the SAC, other than his Title IX claims, against the State Bar as an entity, its committees and departments (to the extent they are proper defendants and they are not), and its officials and employees sued in

their official capacities.⁴ In reaching this conclusion, the court correctly observed that the civil RICO statute and section 1983 do not abrogate a state's Eleventh Amendment sovereign immunity. *See Banks v. ACS Educ.*, 638 Fed. Appx. 587, 589 (9th Cir. 2016); *O'Connor v. State of Nev.*, 686 F.2d 749, 750 (9th Cir. 1982); 1-StateBarSER-112–13. Nor has California waived its immunity from suit in federal court. *See Atascadero State Hosp. v. Scanlon*, 473 U.S. 234, 241 (1985).⁵

⁴ While not reached by the district court, dismissal of the State Bar departments or committees was proper for the additional reason that the departments and committees are part of the State Bar as an entity and lack the capacity to sue and be sued. *See* Fed. R. Civ. P. 17(b)(2) (capacity to sue or be sued for a corporation is governed by the laws under which it was organized); Cal. Bus. & Prof. Code § 6001 (only the State Bar, as an entity, has the capacity to sue and be sued); *Brown v. County of Solano*, 2022 WL 493080, at *1 (E.D. Cal. Feb. 17, 2022) (“[A] named defendant is not a proper party if the defendant is simply ‘part of’ a public entity, and where any claim against defendant would need to be alleged against that public entity.”).

⁵ As the district court correctly observed, Congress has abrogated states' Eleventh Amendment immunity for claims asserting violations of certain statutes, including Title IX. *See Sossamon v. Texas*, 563 U.S. 277, 291 (2011) (noting that Congress has abrogated Eleventh Amendment immunity for certain statutory claims, including Title IX claims). Accordingly, Hill's Title IX claims in the SAC asserted against the State Bar Defendants were not dismissed on sovereign immunity grounds and were instead dismissed without prejudice on Rule 8 grounds. 1-StateBarSER-90–132. Hill reasserted a Title IX claim against the individual State Bar Defendants in their individual

In his opening brief, Hill reiterates an argument that he previously raised before and that was rejected by the district court—that his claims are not barred by the State Bar Defendants’ Eleventh Amendment immunity under the *Ex parte Young* doctrine. AOB at 14, 18, 36–40. But the *Ex parte Young* exception to Eleventh Amendment immunity is not available where, as here, the relief sought is purely retrospective in nature.

The *Ex parte Young* doctrine “allows only prospective injunctive relief to prevent an ongoing violation of *federal* law.” *Doe v. Lawrence Livermore Nat. Lab’y*, 131 F.3d 836, 840 (9th Cir. 1997), emphasis added. This is because the “Eleventh Amendment does not permit retrospective declaratory relief.” *Lund v. Cowan*, 5 F.4th 964, 969–70 (9th Cir. 2021). Relief that is “aimed at remedying a past violation of the law” is retrospective, whereas relief “aimed at remedying an ongoing violation of federal law” is prospective. *Cardenas v. Anzai*, 311 F.3d 929, 935 (9th Cir. 2002). Nor can the *Ex Parte Young* exception be

capacities in the TAC. 9-StateBarSER-2186–44, 10-StateBarSER-2246–2374. In ruling on the State Bar Defendants’ motion to dismiss the TAC, the court dismissed Hill’s Title IX claim for failure to state a claim, and Hill has not challenged that ruling on appeal. 1-StateBarSER-52–54, 57–89.

invoked to assert claims against state officials on the basis of state law, as the district court properly observed. *See Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984); 1-StateBarSER-113–14.

Here, the *Ex parte Young* exception does not apply to Hill’s claims because the relief he seeks is plainly retrospective. In the SAC, Hill seeks damages as well as declaratory relief that the State Bar has regulatory duties toward law students. 12-StateBarSER-2970–74. Nor did Hill cure these deficiencies in the TAC, which seeks declaratory relief that the State Bar violated his rights and failed to adequately supervise PCL, and various types of injunctive relief, including ordering the State Bar to issue a public apology to Hill, establish a restitution fund, reform its policies, implement transparency and accountability measures, properly handle complaints, and discipline individual employees. 9-StateBarSER-2235–38. This relief is not limited to “prospective injunctive relief to prevent an ongoing violation of federal law.” *Doe*, 131 F.3d at 840. Instead, Hill is seeking to remedy a past injury—his purported inability to obtain a law degree or transcript from PCL and his frustration with what he perceives to be a lack of accountability from the school and failure to intervene by the State Bar.

Notably, Hill does not allege any ongoing violation of federal law—nor could he, given that per the allegations of the TAC, the State Bar revoked PCL’s registration and terminated the school’s degree-granting ability in May 2024. 9-StateBarSER-2201.

Hill also argues, confusingly, that at the pleadings stage, immunity applies only when “it is facially apparent from the complaint that the challenged acts were judicial in nature” and that “immunity [should] be tested on a developed record, not presumed from institutional status.” AOB at 38–39. But Hill appears to misunderstand the basis for the district court’s ruling—the district court ruled that his claims in the SAC against the State Bar as an entity, State Bar committees and departments, and individual State Bar employees in their official capacities were barred by Eleventh Amendment immunity, *not* judicial immunity. 1-StateBarSER-90–92, 109–15. Moreover, Hill is incorrect that immunity can only be determined based on a “developed record.” AOB at 39. Because sovereign immunity is an immunity from suit rather than a mere defense to liability, the existence of such immunity must necessarily be determined at the pleadings stage. *See Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S.

139, 144–45 (1993) (“[T]he value to the States of their Eleventh Amendment immunity. . . is for the most part lost as litigation proceeds past motion practice.”); *Thomas v. Nakatani*, 309 F.3d 1203, 1208 (9th Cir. 2002) (“[T]he benefit of [sovereign] immunity is lost or severely eroded once the suit is allowed to proceed past the motion stage of the litigation.”).

Because the *Ex parte Young* exception does not apply to Hill’s claims and Hill’s only other arguments regarding judicial immunity and whether immunity should be determined at the pleadings stage are inapposite, the State Bar as an entity, its committees and departments, and State Bar employees sued in their official capacities are entitled to Eleventh Amendment immunity as to all of Hill’s claims asserted in the SAC, apart from his Title IX claims, which fail to state a claim. The district court therefore did not err in dismissing these claims on sovereign immunity grounds.

C. The District Court Properly Dismissed Hill’s Claims in the TAC Against the State Bar Defendants in Their Individual Capacities for Failure to State a Claim

The district court also correctly dismissed Hill’s claims stated in the TAC against the individual State Bar Defendants in their

individual capacities for failure to state a claim. In the TAC, Hill attempted to assert four federal claims (his first, third, fourth, and eighth causes of action) and four state-law claims (his second, fifth, sixth, and seventh causes of action) against the individual State Bar Defendants in their individual capacities. 9-StateBarSER-2186–2244, 10-StateBarSER-2246–2374. In this appeal, Hill only challenges the district court’s dismissal of his equal protection and civil RICO claims and has waived any challenge to dismissal of his remaining claims. *See generally* AOB. For the reasons explained below, the district court correctly dismissed Hill’s equal protection and civil RICO claims for failure to state a claim.

1. Hill Fails to State an Equal Protection Claim

As to Hill’s equal protection claim (the first cause of action in the TAC), Hill argues that this claim should have survived under the *Ex parte Young* doctrine. AOB at 14–15, 18, 36, 38–40, 47, 53. But as explained above (*see supra*, Section VIII(A)), the *Ex parte Young* doctrine “allows only prospective injunctive relief to prevent an ongoing violation of federal law” and “does not permit retrospective declaratory relief.” *Doe*, 131 F.3d at 840; *Lund*, 5 F.4th at 969–70. Hill makes no

effort to explain why his equal protection claim would survive under the *Ex parte Young* doctrine, given that the SAC and TAC plainly do not seek prospective injunctive relief and there can be no ongoing violation of federal law because, per the allegations of the TAC, PCL closed in May 2024. 9-StateBarSER-2201, 2235–38, 12-StateBarSER-2970–74.

Additionally, Hill appears to misunderstand the basis of the district court’s dismissal of his equal protection claim. In the TAC, Hill’s equal protection claim against the individual State Bar Defendants in their individual capacities was dismissed for failure to state a claim, not on Eleventh Amendment grounds. 1-StateBarSER-52–54, 57–89, 9-StateBarSER-2186–2244, 10-StateBarSER-2246–2374. Thus, even if the *Ex parte Young* doctrine applied (which it does not), at most, it would only mean that Hill’s claim is not categorically barred under the Eleventh Amendment, but it would not remedy the pleading defects in his claim. As explained below, the district court properly dismissed Hill’s equal protection claim in the TAC for failure to state a claim.

A plaintiff complaining of a constitutional violation “does not have a direct cause of action under the United States Constitution.” *Arpin v. Santa Clara Valley Transp. Agency*, 261 F.3d 912, 925 (9th Cir. 2001).

To state a section 1983 claim based on a Fourteenth Amendment equal protection violation, “a plaintiff must show that the defendants acted with an intent or purpose to discriminate against the plaintiff based upon membership in a protected class.” *Shooter v. Arizona*, 4 F.4th 955, 960 (9th Cir. 2021) (citation omitted); *see also Kentucky v. Graham*, 473 U.S. 159, 165 (1985) (plaintiff must show that that the individual caused the alleged constitutional injury). A plaintiff “must plead intentional unlawful discrimination or allege facts that are at least susceptible of an inference of discriminatory intent.” *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022, 1026 (9th Cir. 1998). Moreover, “[v]ague and conclusory allegations of official participation in civil rights violations are not sufficient to withstand a motion to dismiss.” *Ivey v. Bd. Of Regents of Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982). “Because vicarious liability is inapplicable to . . . § 1983 suits, a plaintiff must plead that each Government official defendant, through the official’s own individual actions, has violated the Constitution.” *Iqbal*, 556 U.S. at 676 (emphasis added). Public officials “may not be held liable merely for being present at the scene of a constitutional

violation or for being a member of the same operational unit as a wrongdoer.” *Felarca v. Birgeneau*, 891 F.3d 809, 820 (9th Cir. 2018).

Here, Hill failed to state an equal protection claim because he does not plausibly allege intentional race discrimination by any State Bar Defendant. Hill merely alleges that the State Bar Defendants allowed PCL “to freely operate,” should have more carefully regulated PCL, and harmed Hill through their collective “inaction.” 9-StateBarSER-2205–06, 2208. As the district court correctly held, individuals enjoy “no constitutional right to sue state employees who fail to protect them against harm inflicted by third parties.” *L.W. v. Grubbs*, 974 F.2d 119, 121 (9th Cir. 1992); 1-StateBarSER-71.

Nor can Hill assert an equal protection violation based on the State Bar’s policy of not interfering in disputes between students and their law schools given that, as the district court noted, the TAC alleges that the policy applies *equally* to all students and provides only conclusory allegations that the policy had a disparate impact on African American students. 1-StateBarSER-71. Additionally, Hill does not allege that the State Bar set any policy regarding PCL’s regulation with discriminatory intent. 1-StateBarSER-72 (citing *Navarro v. Block*, 72

F.3d 712, 716 n.5 (9th Cir. 1995)). Because an equal protection violation requires intent, deliberate indifference is not enough to state an equal protection claim. *See Lee v. City of L.A.*, 250 F.3d 668, 687 (9th Cir. 2001) (allegation that defendant’s facially neutral policy was deliberately indifferent to the rights of a certain population did not state an equal protection claim, because such a claim requires intent).

Finally, Hill fails to demonstrate any error by the district court in dismissing his equal protection claim with prejudice. In his opening brief, Hill contends that he “later supplied in two proposed amendments” the missing allegations identified by the district court and that in essence, the district court erred by failing to provide him with unlimited opportunities to continually amend his pleadings. AOB at 37. But as explained below (*see infra*, Section VIII(C)), a plaintiff may not seek to avoid dismissal of their claims by continuously filing amended pleadings in violation of the limitations of Federal Rule of Civil Procedure 15. Moreover, any additional factual allegations pled in the 4AC or proposed 5AC have no bearing here because, per the district court’s order granting the State Bar Defendants’ motion to dismiss the TAC, Hill was not permitted to state any claims against the State Bar

Defendants in any additional pleadings after the TAC. 1-StateBarSER-52–54, 57–89.

Where, as here, Hill fails to allege any intentional discrimination or affirmative action by any State Bar Defendant, Hill cannot state an equal protection claim.

2. Hill Fails to State a Civil RICO Claim

Liberally construing the opening brief, Hill also appears to challenge the district court’s dismissal of his civil RICO claim (the fourth cause of action in the TAC). AOB at 1–2. The district court’s dismissal of this claim was proper because Hill cannot state a civil RICO claim against the State Bar Defendants based on their purported failure to adequately regulate PCL.

To state a civil RICO claim, a plaintiff must allege facts showing: “(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity (known as ‘predicate acts’) (5) causing injury to plaintiff’s ‘business or property.’” *Living Designs, Inc. v. E.I. Dupont de Nemours and Co.*, 431 F.3d 353, 361 (9th Cir. 2005) (citation omitted); 18 U.S.C. § 1964(c). To prevail under RICO, the predicate acts alleged

“must establish a pattern of criminal activity.” *Allwaste, Inc. v. Hecht*, 65 F.3d 1523, 1527 (9th Cir. 1995) (citation omitted).

Here, at a minimum, Hill plainly fails to allege the existence of a RICO enterprise or any racketeering activity. A RICO enterprise includes “any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.” 18 U.S.C. § 1961(4). To establish the existence of an associated-in-fact enterprise, a plaintiff must provide both “evidence of an ongoing organization formal or informal,” and “evidence that the various associates function as a continuing unit.” *Odom v. Microsoft Corp.*, 486 F.3d 541, 552 (9th Cir. 2007) (en banc). Hill fails to include any factual allegations as to the State Bar Defendants’ involvement, and indeed, suggests that RICO liability should be imposed on the State Bar Defendants merely for their purported “inaction” rather than any involvement in the purported enterprise. 9-StateBarSER-2208, 2214, 2217, 2221.

Nor does Hill allege facts demonstrating racketeering activity by the State Bar Defendants. 18 U.S.C. § 1961(1) defines racketeering activity based on a specific list of predicate crimes that violate state

and/or federal law, such as murder, kidnapping, and arson. Instead, Hill alleges the racketeering acts here are wire and mail fraud, extortion, “unreasonable restraint of trade,” violation of the State Bar Act, “conflicts of interest and ethical breaches,” “breaches of fiduciary duty and implied covenants of good faith and fair dealing,” constitutional violations, and antitrust violations. 9-StateBarSER-2217–18. Even if these acts could serve as predicate acts under RICO, the TAC includes no factual allegations explaining what these acts were, when they were purportedly carried out, and which defendants are responsible. 9-StateBarSER-2215–18. Nor do Hill’s purported predicate acts of mail fraud and wire fraud satisfy the heightened pleading requirements under Federal Rule of Civil Procedure 9(b) for fraud. *See Kearns v. Ford Motor Co.*, 567 F.3d 1120, 1124 (9th Cir. 2009) (“Rule 9(b) demands that the circumstances constituting the alleged fraud be specific enough to give defendants notice of the particular misconduct[.]”).

In his opening brief, Hill contends that the district court should have provided a “reasoned application” of several cases that Hill believes set forth the correct standard for evaluating a civil RICO claim.

AOB at 1–2 (citing *Canyon County v. Syngenta Seeds, Inc.*, 519 F.3d 969, 972 (9th Cir. 2008), *Eclectic Properties East, LLC v. Marcus & Millichap Co.*, 751 F.3d 990, 995–97 (9th Cir. 2014), *Moore v. Kayport Package Exp., Inc.*, 885 F.2d 531, 540–41 (9th Cir. 1989), and a case identified only as “*Bridge*”). But Hill’s cited authorities only confirm that the district court’s conclusion is correct—Hill cannot state a civil RICO claim against the State Bar Defendants. Under *Canyon County*, a civil RICO plaintiff seeking to establish standing must show “(1) that his alleged harm qualifies as injury to his business or property; and (2) that his harm was ‘by reason of’ the RICO violation, which requires the plaintiff to establish proximate causation.” 519 F.3d at 972. Under *Eclectic Properties*, a plaintiff asserting a civil RICO claim must, under *Twombly* and *Iqbal*, allege facts establishing that a claim is not only conceivable, but plausible. 751 F.3d at 997. And under *Kayport*, the Ninth Circuit has made clear that the particularity requirements of Rule 9(b) apply to civil RICO claims, such that a plaintiff must “state the time, place, and specific content of the false representations as well as the identities of the parties to the misrepresentation.” 885 F.2d at 541.

Here, Hill fails to satisfy any of these standing or pleading requirements. Although the TAC includes a laundry list of purported predicate acts, there are no factual allegations explaining what these acts were, when they were purportedly carried out, and which defendants are responsible. 9-StateBarSER-2215–18. For example, as to the purported predicate act of extortion, the TAC includes a threadbare allegation that unnamed defendants were “[t]hreatening to withhold certifications and access to education unless unjustified payments were made.” 9-StateBarSER-2217. Moreover, as the district court observed, the claim “is not legally viable, in that awareness of a third party’s fraudulent conduct can never amount to ‘participat[ion] in the operation or management of the enterprise, as is required to state a RICO claim.” 1-StateBarSER-76 (citing *Reves v. Ernst & Young*, 507 U.S. 170, 185 (1993)). Hill’s cited authorities only confirm that the district court properly dismissed his civil RICO claim against the State Bar Defendants.

Accordingly, this Court should affirm.

D. Dismissal Can Be Affirmed on Alternative Grounds

While this Court can affirm the judgment solely on the grounds provided by the district court, dismissal of Hill’s equal protection and civil RICO claims is also warranted on the alternative grounds that the individual State Bar Defendants named in their individual capacities are entitled to qualified immunity and individual members of the State Bar’s Board of Trustees and CBE are not proper defendants.

First, Hill’s equal protection and civil RICO claims against the individual State Bar Defendants named in their individual capacities are barred by qualified immunity. The doctrine of qualified immunity “shields government officials performing discretionary functions from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Saved Mag. v. Spokane Police Dept.*, 19 F.4th 1193, 1198 (9th Cir. 2021). A federal or state official is entitled to qualified immunity “unless a plaintiff pleads facts showing (1) that the official violated a statutory or constitutional right, and (2) that the right was ‘clearly established’ at the time of the challenged conduct.” *Ashcroft v. al-Kidd*, 563 U.S. 731, 735 (2011). A right is

“clearly established” for purposes of the second prong of the qualified immunity analysis if, “at the time of the challenged conduct, the contours of [the] right are sufficiently clear that every reasonable official would have understood that what he is doing violates that right.” *al-Kidd*, 563 U.S. at 741 (cleaned up).

Here, Hill attempts to impose liability on various individual State Bar Defendants for purportedly failing to intervene in his disputes with PCL or more stringently regulate PCL—theories of liability that are not supported by any case law. Hill’s arguments are contrary to the “general rule” that “members of the public have no constitutional right to sue state employees who fail to protect them against harm inflicted by third parties.” *Grubbs*, 974 F.2d at 121. Nor does Hill allege intentional racial discrimination by the individual State Bar Defendants; rather, he alleges a failure to intervene or to regulate. *See Monteiro*, 158 F.3d at 1026 (intentional discrimination is a required element). Where, as here, Hill frames the constitutional rights too generally and the Ninth Circuit has never held officials of a regulatory agency liable for alleged discrimination by the regulated body, the constitutional right is not clearly established. *See, e.g., Sabra v.*

Maricopa Cnty. Cmty. Coll. Dist., 44 F.4th 867, 886–87 (9th Cir. 2022) (affirming dismissal of quality immunity claims at pleadings stage where courts have “never held that actions like the ones challenged in this case constitute a violation” of the constitutional right at issue). Accordingly, Hill’s equal protection and civil RICO claims against the individual State Bar Defendants named in their individual capacities are barred by qualified immunity.

Second, although Hill attempts to impose liability against seven current or former members of the State Bar’s Board of Trustees or CBE in their individual capacities in the TAC, his equal protection and civil RICO claims fail because these individuals are not proper defendants.⁶ Individual members of a legislative body do not have authority to bind the Board of Trustees or the CBE. *See, e.g., Nevada Irrigation Dist. v. Sobeck*, 705 F. Supp. 3d 1093, 1109 (E.D. Cal. 2023) (“[I]ndividual Board Members cannot be sued where they do not have unilateral authority to act”). Hill’s claims against these individuals must therefore be dismissed.

⁶ These individuals are Brandon Stallings; Ruben Duran; Hailyn Chen; Melanie Shelby; Arnold Sowell, Jr.; Mark Toney; and Paul Kramer. 9-StateBarSER-2190.

Accordingly, dismissal of Hill's equal protection and civil RICO claims is warranted on the alternative grounds that the individual State Bar Defendants named in their individual capacities are entitled to qualified immunity and individual members of the State Bar's Board of Trustees and CBE are not proper defendants.

E. The District Court Did Not Abuse Its Discretion in Ruling on Hill's Requests for Judicial Notice

Nor did the district court abuse its discretion by denying several of Hill's various requests for judicial notice filed at docket nos. 197, 199, 263, 273, 276, 278, 290, 296, 301, and 329 and ruling on these requests without providing itemized, exhibit-by-exhibit explanations. AOB at 8, 23, 27. Hill challenges the district court's rulings regarding the following documents filed in connection with the various defendants' motions to dismiss: (1) several emails exchanged between Hill and counsel for the various defendants which, according to Hill, demonstrate that the defendants failed to meet and confer with him before filing their respective motions to dismiss the TAC (8-StateBarSER-1903–44); (2) legislative records regarding purported systematic failures at the State Bar and internal emails from the State Bar regarding PCL (8-StateBarSER-1808–1902); (3) the motion to

dismiss the 4AC filed by defendant Robert Spiro, an individual unrelated to the State Bar Defendants (17-StateBarSER-4403); (4) defendant Spiro's reply in support of his motion to dismiss the 4AC (17-StateBarSER-4403); (5) various internal documents and emails from PCL regarding whether defendant Spiro held corporate officer or director status at PCL (17-StateBarSER-4403); (6) various documents regarding defendant Spiro's volunteer status at PCL (17-StateBarSER-4403); (7) a February 2025 letter from the State Bar purportedly stating that Hill was eligible to sit for the February 2025 bar exam (6-StateBarSER-1151-63); (8) State Bar Rule 4.241, which sets forth certain disclosure requirements on registered law schools (5-StateBarSER-1079-81); (9) the entire 2022 edition of the State Bar's Unaccredited Law School Rules (5-StateBarSER-1023-78); and (10) the Answer filed by Defendant Spiro to Hill's FAC (17-StateBarSER-4407).

The district court granted in part the requests for judicial notice filed at docket nos. 197 and 199 and denied the remainder of the requests on the grounds that the documents were irrelevant, failed to meet the requirements for judicial notice under Federal Rule of Evidence 201, or were part of the docket such that the court did not

need to judicially notice the documents to consider them. 1-

StateBarSER-52–54, 57–89.

In his opening brief, Hill does not explain why the district court erred in its rulings as to these requests for judicial notice and indeed, does not provide specific arguments as to each of these requests, apart from listing them by docket number in his opening brief. AOB at 8, 23, 27. Instead, Hill appears to argue that the district court erred because it did not conduct an itemized, “exhibit-by-exhibit” analysis of his various requests and should not have issued “bulk” rulings. AOB at 8, 12–13, 19–25. Hill is incorrect and the district court was under no requirement to provide such an itemized analysis.

Under Federal Rule of Evidence 201(b), a court “may judicially notice a fact that is not subject to reasonable dispute” if it “is generally known within the trial court's territorial jurisdiction” or “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Under Rule 201(c), a court “may take judicial notice on its own,” and it “must take judicial notice if a party requests it and the court is supplied with the necessary information.” But “[c]ourts are not required to take judicial notice of irrelevant

materials.” *Hargis v. Access Cap. Funding, LLC*, 674 F.3d 783, 793 (8th Cir. 2012); *see also Gerritsen v. Warner Bros Ent. Inc.*, 112 F. Supp. 3d 1011, 1026–30 (C.D. Cal. 2015) (declining to take judicial notice of documents irrelevant to motion to dismiss). Although a court may take judicial notice of matters of public record, a court “cannot take judicial notice of disputed facts contained in such public records.” *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018).

Here, Hill appears to fundamentally misunderstand the relevant governing standards for judicial notice and motions to dismiss under Rules 201 and 12(b)(6). The various exhibits at issue—emails exchanged between the parties, legislative records, emails from the State Bar, filings on the docket in this matter, internal documents regarding defendant Spiro’s role at PCL, and State Bar rules governing law schools—are either not adjudicative facts under Rule 201 or were not necessary for the court to determine whether Hill stated a claim at the motion-to-dismiss stage under Rule 12(b)(6), given that the district court took his well-pled allegations as true. *See Twombly*, 550 U.S. at 555 (holding that courts must accept as true the well-pleaded factual allegations of a complaint).

Nor could Hill use his requests for judicial notice in an effort to amend his complaint and defeat the defendants' motions to dismiss. Hill had a duty to prepare a complaint that was sufficiently detailed and particularized so as to set forth plausible claims for relief (*see* Fed. R. Civ. P. 8(a)(2)), and could not avoid dismissal of his claims by requesting judicial notice of extraneous matters outside the pleadings. *See Oklahoma Firefighters Pension & Ret. Sys. v. IXIA*, 50 F. Supp. 3d 1328, 1350 (C.D. Cal. 2014) (declining to take judicial notice of exhibits where the plaintiffs attempted to "utilize the documents to amend the complaint and defeat defendants' motions to dismiss"); *In re Turbodyne Techs., Inc. Sec. Litig.*, 2000 WL 33961193, at *10 (C.D. Cal. Mar. 15, 2000) (declining to take judicial notice of an exhibit where the complaint lacked the factual allegations necessary to support a claim and the plaintiffs sought "to have the court take judicial notice . . . to cure this omission").

Finally, the district court was not required to provide a detailed, exhibit-by-exhibit analysis in its rulings, contrary to Hill's argument that failure to do so was error *See* AOB at 19. And because Hill's claims fail as a matter of law for the reasons explained above (*see supra*,

Section VIII(A)–(B)), any failure by the district court to provide an itemized explanation supporting each ruling was at most, harmless procedural error. *See In re First All. Mortg. Co.*, 471 F.3d 977, 1000 (9th Cir. 2006) (individual evidentiary rulings may be harmless errors and the court need only consider whether the cumulative effect of such errors “was enough to prejudice a party’s substantial rights”).

Accordingly, the district court did not abuse its discretion by denying several of the requests for judicial notice at 197, 199, 263, 273, 276, 278, 290, 296, 301, and 329 and ruling on these requests without providing itemized, exhibit-by-exhibit explanations.

F. The District Court Did Not Abuse Its Discretion in Denying Leave to Amend

Nor did the district court abuse its discretion in dismissing Hill’s claims against the State Bar Defendants as asserted in the SAC and TAC with prejudice and without leave to amend. The district court has “broad discretion in deciding whether to grant leave to amend” *WPP Luxembourg Gamma Three Sarl v. Spot Runner, Inc.*, 655 F.3d 1039, 1058 (9th Cir. 2011). “[A] district court may dismiss without leave where a plaintiff’s proposed amendments would fail to cure the pleading

deficiencies and amendment would be futile.” *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011).

Here, the district court provided a detailed analysis explaining why further leave to amend should be denied—specifically, that Hill was previously granted leave to amend the SAC and was provided detailed instructions regarding his pleading deficiencies, but that she failed to remedy these issues in the TAC, which counseled against granting further leave to amend. 1-StateBarSER-84–85. The district court further explained that, as to the State Bar Defendants, nearly all of Hill’s claims had numerous legal defects, including Eleventh Amendment immunity, that could not be cured through further amendment, and that Hill failed to allege any factual allegations whatsoever regarding affirmative conduct taken by any individual State Bar Defendant. 1-StateBarSER-84. Based on this analysis, the district court concluded that Hill should not be granted further leave to amend and that his 4AC could not assert claims against the State Bar Defendants, as such amendment would be futile.⁷ *Id.*

⁷ The district court, however, granted Hill limited leave to reassert certain claims against the PCL Defendants in a 4AC. 1-StateBarSER-85–86.

Hill argues in his opening brief that the district court erred by failing to consider the merits of the claims asserted in his proposed 5AC and that the district court should have considered whether further amendment was futile based on the allegations of the proposed 5AC. AOB at 13–14, 26–32, 34, 48–50. However, Hill neglects to mention that he filed his proposed 5AC after the PCL Defendants had already moved to dismiss the 4AC and while a ruling as to those motions remained pending, and that the district court ultimately denied Hill’s later-filed motion for leave to file the proposed 5AC because the court found no substantive change that would save Hill’s claims. 1-StateBarSER-32–33, 4-StateBarSER-597–782, 17-StateBarSER-4403. And significantly, by that time, the State Bar Defendants had already been dismissed from the proceedings.

According to Hill, under these circumstances, the district court was required to sua sponte consider the allegations in his proposed 5AC. Hill is mistaken and provides no relevant authority for the proposition that a district court is required to disregard the allegations of an operative filing and instead perform a sua sponte review of the allegations in an unauthorized further amended filing. Nor could he,

given that Hill’s argument flies in the face of Federal Rule of Civil Procedure 15(a), which provides that a party may only amend its pleading once as a matter of course and in all other cases, may amend a pleading “only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(1)–(2). Additionally, well-established case law makes clear that it is a party’s responsibility to present a case clearly and completely, and not a court’s responsibility to dig through the record to craft arguments or find relevant facts. *McNeil v.*

Wisconsin, 501 U.S. 171, 181 n. 2 (1991) (holding that the adversarial system requires “the presence of a judge who does not . . . conduct the factual and legal investigation himself, but instead decides on the basis of facts and arguments pro and con adduced by the parties.”) Hill had ample opportunity to attempt to state a claim against the State Bar Defendants in four pleadings—his initial Complaint, FAC, SAC, and TAC—and failed to do so, and the district court was under no obligation to permit unlimited opportunities for amendment, let alone conduct a sua sponte review of an unauthorized further amended pleading.

Accordingly, the district court did not abuse its discretion in dismissing Hill's claims against the State Bar Defendants with prejudice and without leave to amend.

G. The District Court Did Not Abuse Its Discretion in Denying Hill's Rule 59(e) Motions

Finally, the district court did not abuse its discretion in denying Hill's motions to alter or amend a judgment filed under Federal Rule of Civil Procedure 59(e). Hill filed two Rule 59(e) motions. 2-StateBarSER-150–84, 6-StateBarSER-1127–50. Hill's first Rule 59(e) motion challenged the district court's decision denying reconsideration of its order dismissing Hill's claims against the State Bar Defendants in the TAC; this motion was denied as premature because no judgment had been entered and relief under Rule 59(e) was not appropriate. 1-StateBarSER-36–39, 6-StateBarSER-1127–50.

Hill then filed a second Rule 59(e) motion challenging the entry of judgment by the district court after it dismissed Hill's claims against the PCL Defendants in the 4AC. 2-StateBarSER-150–84. Hill's second Rule 59(e) motion argued that the district judge's order adopting the magistrate judge's Report and Recommendation as to the 4AC was legally flawed because: (1) the district court adopted the magistrate

judge's reasoning without further analysis; (2) the district court failed to correctly apply Rule 12(b)(6) in dismissing his claims; (3) the district court erred in its rulings regarding Hill's various requests for judicial notice; and (4) the district court should have considered his proposed 5AC rather than the operative 4AC. 2-StateBarSER-150–84. The district court rejected each of Hill's arguments. 1-StateBarSER-2–9.

In his opening brief, Hill appears to reiterate the arguments asserted in his second Rule 59(e) motion (which was limited to the district court's rulings as to the PCL Defendants and did not concern the State Bar Defendants). *See generally* AOB. But to the extent Hill's arguments also challenge the district court's dismissal of Hill's claims against the State Bar Defendants in the SAC and TAC with prejudice and without leave to amend, Hill's arguments are meritless.

Under Rule 59(e), a party may move to alter or amend a judgment within twenty-eight days after entry of the judgment. Fed. R. Civ. P. 59(e). A Rule 59(e) motion may be granted when (1) the motion is necessary to correct manifest errors of law or fact upon which the judgment is based, (2) the moving party presents newly discovered or previously unavailable evidence, (3) the motion is necessary to prevent

manifest injustice, or (4) there is an intervening change in controlling law. *Turner v. Burlington N. Santa Fe R.R. Co.*, 338 F.3d 1058, 1063 (9th Cir. 2003) (citing *McDowell v. Calderon*, 197 F.3d 1253, 1254 n.1 (9th Cir. 1999)). Relief under Rule 59(e) is an “extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources.” *Wood v. Ryan*, 759 F.3d 1117, 1121 (9th Cir. 2014) (per curiam).

First, the district court was not required to provide further analysis when adopting the magistrate judge’s reasoning in the Reports and Recommendations regarding the SAC and TAC. 1-StateBarSER-52–54, 57–89. A district court reviewing a magistrate judge’s findings and recommendations need only “indicat[e] that it reviewed the record de novo, found no merit to [plaintiff’s] objections, and summarily adop[t] the magistrate judge’s analysis in his report and recommendation.” *United States v. Ramos*, 65 F.4th 427, 433 (9th Cir. 2023); 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72. The district court did so here and noted in its orders that it had reviewed the operative pleadings, the records and files in this matter, the magistrate judge’s Reports and Recommendations, any objections filed, and had engaged in a de novo

review to any portions of the Reports and Recommendations to which objections had been made. 1-StateBarSER-11–13, 52–54. Hill’s contention that the district court was required to provide further analysis is incorrect and unsupported by any authority.

Second, the district court correctly applied the Rule 12(b)(6) standard in dismissing Hill’s claims against the State Bar Defendants. 1-StateBarSER-52–54, 57–89. As discussed above (*see supra*, Section VIII(A)–(B)), the district court correctly held that nearly all of Hill’s claims in the SAC were barred by the State Bar’s Eleventh Amendment immunity, and that all of Hill’s claims in the TAC failed to state a claim. 1-StateBarSER-52–54, 57–89. Hill’s only grounds for arguing that his claims survive—that the *Ex parte Young* exception applies to his equal protection claim and the district court should have considered the allegations of his unauthorized, proposed 5AC that he filed well after the State Bar Defendants were dismissed—do not save his meritless claims against the State Bar Defendants (*see supra*, Sections III(A)–(B), (E)).

Third, as explained above (*see supra*, Section VIII(E)), the district court was not required to provide an exhibit-by-exhibit, itemized

analysis of his various requests for judicial notice, and any failure to do so was at most harmless procedural error.

Fourth, the district court was not required to sua sponte consider the claims in his proposed 5AC rather than the SAC and TAC—the operative pleadings as to the State Bar Defendants. As explained above (*see supra*, Section VIII(E)), the district court was not required to disregard the allegations of an operative filing and perform a sua sponte review of the allegations in a proposed 5AC that was filed without leave of court as required under Rule 15, and while various motions to dismiss the 4AC were pending.

Accordingly, the district court did not abuse its discretion in denying Hill’s Rule 59(e) motions because his first Rule 59(e) motion was filed prematurely before the entry of judgment, and his second Rule 59(e) motion, to the extent that it challenged the district court’s rulings as to the State Bar Defendants, did not satisfy any of the grounds for altering or amending a judgment under Rule 59(e).

IX. CONCLUSION

The district court properly adjudicated Hill’s claims and its orders granting the State Bar Defendants’ motions to dismiss the SAC and

TAC, dismissing his claims against the State Bar Defendants with prejudice and without leave to amend, ruling on Hill's various requests for judicial notice, and denying Hill's motions to alter or amend the judgment under Rule 59(e) were proper, applied the correct law, and were not an abuse of discretion. Hill presents no grounds for reversal, and the district court's judgment and underlying orders should be affirmed.

DATED: January 26, 2026

Respectfully submitted,

ELLIN DAVTYAN
KIRSTEN R. GALLER
JENNIFER KO

By: /s/ Jennifer Ko
JENNIFER KO

Attorneys for Defendants-Appellees
LOUISA AYRAPETYAN, NATALIE
LEONARD, LEAH WILSON,
BRANDON STALLINGS, RUBEN
DURAN, HAILYN CHEN, AUDREY
CHING, MELANIE SHELBY,
ARNOLD SOWELL, JR., MARK
TONEY, PAUL KRAMER, JEAN
KRASILNIKOFF, ELLIN DAVTYAN,
GEORGE CARDONA, DEVAN
MCFARLAND, ENRIQUE ZUNIGA

STATEMENT OF RELATED CASES

The undersigned attorney or self-represented party states the following:

☒ I am unaware of any related cases currently pending in this court.

☐ I am unaware of any related cases currently pending in this court other than the case(s) identified in the initial brief(s) filed by the other party or parties.

☐ I am aware of one or more related cases currently pending in this court. The case number and name of each related case and its relationship to this case are:

Signature: /s/ Jennifer Ko **Date:** January 26, 2026

CERTIFICATE OF COMPLIANCE

I am the attorney or self-represented party.

This brief contains 11,282 words, excluding the items exempted by Fed. R. App. P. 32(f). The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

I certify that this brief (select only one):

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☐ [] complies with the length limit designated by court order dated _____.

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Signature: /s/ Jennifer Ko

Date: January 26, 2026

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U.S. Const. amend XI

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

18 U.S.C. § 241

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same. . . They shall be fined under this title or imprisoned not more than ten years, or both. . .

18 U.S.C. § 242

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. . . shall be fined under this title or imprisoned not more than one year, or both

18 U.S.C. § 245

(b) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

. . .

(2) any person because of his race, color, religion or national origin. . . shall be fined under this title, or imprisoned not more than one year, or both. . . .

18 U.S.C. § 1961

(1) “racketeering activity” means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code . . .

. . .

(4) “enterprise” includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

18 U.S.C. § 1964

(c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney’s fee, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962. . . .

20 U.S.C. § 1681

(a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. . . .

28 U.S.C. § 636

(b)(1) Notwithstanding any provision of law to the contrary—
...

(C) [T]he magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties. Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

42 U.S.C. § 1981

(a) All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like

punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

42 U.S.C. § 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 U.S.C. § 2000d

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the

benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Cal. Bus. & Prof. Code § 6001

(a) The State Bar of California is a public corporation. It is hereinafter designated as the State Bar.

(b) The State Bar has perpetual succession and a seal and it may sue and be sued. . . .

Cal. Bus. & Prof. Code § 6060

To be certified to the Supreme Court for admission and a license to practice law, a person who has not been admitted to practice law in a sister state, United States jurisdiction, possession, territory, or dependency or in a foreign country shall:

. . .

(h)(1) Have passed a law students' examination administered by the examining committee after completion of their first year of law study. . . .

. . .

(2)(A) This requirement does not apply to a student who has satisfactorily completed their first year of law study at a law school accredited by the examining committee and who has completed at least two years of college work prior to matriculating in the accredited law school, nor shall this requirement apply to an applicant who has passed the bar examination of a sister state or of a country in which the common law of England constitutes the basis of jurisprudence.

Cal. Bus. & Prof. Code § 6060.7

The examining committee shall be responsible for the approval, regulation, and oversight of degree-granting law schools that meet both of the following:

- (a) Award the juris doctor (J.D.) professional degree in California.
- (b) Are not approved by the American Bar Association.

Cal. Bus. & Prof. Code § 6064

(a) Upon certification by the examining committee that the applicant has fulfilled the requirements for admission to practice law, the Supreme Court may admit the applicant as an attorney at law in all the courts of this state and may direct an order to be entered upon its

records to that effect. A certificate of admission thereupon shall be given to the applicant by the clerk of the court.

(b) Upon certification by the examining committee that an applicant who is not lawfully present in the United States has fulfilled the requirements for admission to practice law, the Supreme Court may admit that applicant as an attorney at law in all the courts of this state and may direct an order to be entered upon its records to that effect. A certificate of admission thereupon shall be given to the applicant by the clerk of the court.

Cal. Bus. & Prof. Code § 17500

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to . . . make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated . . . any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is

known, or which by the exercise of reasonable care should be known, to be untrue or misleading. . . .

Cal. Civ. Code § 51

(a) This section shall be known, and may be cited, as the Unruh Civil Rights Act.

(b) All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

Cal. Civ. Code § 52.1

(a) This section shall be known, and may be cited, as the Tom Bane Civil Rights Act.

(b) If a person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or

laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief

(c) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (b), may institute and prosecute in their own name and on their own behalf a civil action for damages. . . .

CERTIFICATE OF SERVICE FOR ELECTRONIC FILING

I hereby certify that I electronically filed the foregoing/attached document(s) on this date with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing system.

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Description of Document(s) (*required for all documents*):

APPELLEES' ANSWERING BRIEF; APPELLEES' SUPPLEMENTAL EXCERPTS OF RECORD; APPELLEES' INDEX VOLUME
--

Signature /s/ Jenny Batdorj **Date** January 26, 2026